

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

JOHN DOE,

Plaintiff,

V.

**VIRGINIA POLYTECHNIC INSTITUTE
AND STATE UNIVERSITY, et al.,**

Defendants.

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Case No. 7:21cv378

**AMENDED REPLY MEMORANDUM IN SUPPORT OF MOTION TO DISMISS PURSUANT
TO RULE 12(b)(1)**

unresponsive to the issues raised in Defendants' Motion to Dismiss Pursuant to Rule 12(b)(1). A motion brought pursuant to Rule 12(b)(1) does not challenge whether a complaint states a claim for relief; it is a challenge to subject-matter jurisdiction. Fed. R. Civ. P. 12(b)(1). A motion brought pursuant to Rule 12(b)(6) challenges whether a complaint states a claim for relief. Fed. R. Civ. P. 12(b)(6). Defendants filed a separate motion pursuant to Rule 12(b)(6). ECF No. 41. Thus, Doe's argument as to whether he has stated a claim for a violation of due process should be disregarded for purposes of Defendants' motion brought pursuant to Rule 12(b)(1) as the two concepts are mutually exclusive.

Respectfully submitted,

VIRGINIA POLYTECHNIC INSTITUTE AND
STATE UNIVERSITY, TIMOTHY SANDS, ALEXEY
ONUFRIEV, and TAMARA CHERRY-CLARKE

/s/

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- 2 -

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CERTIFICATE OF SERVICE

I hereby certify that on October 28, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will automatically send notification of such filing to all counsel of record.

/s/ Nathan H. Schnetzler
Of Counsel

